IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 4220 of 2005

Between:

V.Krishna Reddy S/o.Venkata Reddy
R/o.Kothuru Village, Tirupati (Rurual)Mandal Chittoor District.

..... PETITIONER

AND

1 The Revenue Divisional Officer Tirupathi, Chittoor District.
2 The Mandal Revenue Officer, Tirupathi (Rural) Mandal,
Tirupathi, Chittoor District.

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or direction, more particularly one in the nature of writ of Certiorari, calling for the records relating to the order in Proceedings D.Dis D/980/04 dt.9.12.2004 from the file of the 2nd respondent and after perusing the same quash the said order dt.9.12.2004 by declaring it as arbitrary, violative of the principles of natural justice and illegal and with all other consequential benefits.

Counsel for the Petitioner: MR.V.JAGAPATHI

Counsel for the Respondents: GP FOR REVENUE

The Court at the stage of admission made the following:

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.4220 OF 2005

ORDER :

This writ petition is filed seeking a Writ of Certiorari calling for the records relating to the order passed by the 2nd respondent – Mandal Revenue Officer, dated 9-12-2004 and to quash the same being arbitrary, illegal and in violation of the principles of natural justice.

The petitioner, who claims to be a landless poor person, states that he purchased agricultural land to an extent of Ac.4-40 cents situated in Sy.No.2/2 in No.15, Kothur Village Accounts, Tirupati Rural Mandal under a Registered Sale Deed dated 6-1-1972. It is stated that he was also issued a pattedar pass book and title deeds in respect of the said land on 25-9-1995 and that he has been in continuous possession and enjoyment of the same. While so, the 2nd respondent issued a notice dated 13-09-2004 stating that the petitioner is found to have been in possession of the assigned lands in contravention of the provisions of Section 3(2) of The A.P. Assigned Lands (Prohibition of Transfers) Act, 1977 (for short, 'the Act')

and calling upon him to show cause within 15 days as to why he should not be summarily evicted from the said lands. The petitioner submitted explanation dated 4-10-2004 stating that the said lands were purchased by him for a valid consideration and that he has been in continuous possession and enjoyment of the same. Thereafter, the 2nd respondent passed the impugned order dated 9-12-2004 cancelling the patta dated 6-6-1964 said to have been granted in favour of Sri Venkataiah in respect of the land in occupation of the petitioner and resumed the same to the Government under intimation to the petitioner. The said order is under challenge in this writ petition.

At the outset, it is to be noted that against the impugned order which was passed under Section 4(1) of the Act an Appeal is provided under the Act before the Revenue Divisional Officer under Section 4-A of the Act. Hence, without exhausting the said efficacious alternative remedy of Appeal under the Act, the petitioner cannot maintain this writ petition.

The learned Counsel for the petitioner though does not dispute the fact that the impugned order is appealable under the Act, contends that under the show-cause notice dated 13-09-2004 the petitioner was not put on notice as to the proposed cancellation / resumption of the lands in question and it was also not disclosed the manner in which the petitioner has contravened the provisions of the Act and therefore the impugned order is not in conformity with the principles of natural justice and the same amounts to dispossessing the petitioner without following due process of law. Thus, according to the learned Counsel, notwithstanding the alternative remedy available under the Act, the petitioner is entitled to invoke the writ jurisdiction under Article 226 of the Constitution of India.

Section 4(1)(a) of the Act provides that if in any case the District Collector or any other officer not below the rank of a Mandal Revenue Officer authorized by him in this behalf is satisfied that the provisions of Section 3 (1) of the Act have been contravened in respect of any assigned land, he may by order take possession of the said land after evicting the person in possession in such manner as may be prescribed. As per Rule 3 of the Rules made in G.O.Ms.No.281, dated 02-02-1978 in exercise of the powers conferred under Section 9(1) of the Act, a detailed procedure

has been prescribed for eviction of the transferee and taking possession and restoration of the assigned lands. As per the said Rule, the District Collector or the Authorised Officer shall before taking action under Section 4(1)(a) of the Act, issue a notice in Form-I to the person who acquired any assigned land in contravention of the provisions of sub-Section (2) of Section 3 of the Act.

As can be seen from the material on record, the petitioner was served with a show-cause notice dated 13-09-2004 in Form-I of the said Rules made under G.O.Ms.No.281, dated 02-02-1978. The petitioner does not dispute the receipt of the said notice and as a matter of fact in response to the same he has submitted his explanation.

In the circumstances and keeping in view that the show-cause notice was issued in the format prescribed under the Statutory Rules, the contention of the petitioner that the show-cause notice is vague and lacking in material particulars and consequently the final order which is impugned in this writ petition is in violation of the principles of natural justice is untenable and cannot be accepted.

Though the learned Counsel for the petitioner raised several other contentions on merits, I am not inclined to express any opinion on the same since admittedly an efficacious alternative remedy of Appeal is available under the Act. If the petitioner is aggrieved, it is open to him to work out the said remedy, but without exhausting the said alternative remedy, he cannot maintain this writ petition.

Accordingly, granting leave and liberty, the Writ Petition is disposed of. No costs.

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07th March, 2005.

gbs

To

1 The Revenue Divisional Officer Tirupathi, Chittoor District.
2 The Mandal Revenue Officer, Tirupathi (Rural) Mandal,
Tirupathi, Chittoor District.

3. Two C.Cs. to the G.P. for Revenue, High Court Buildings, Hyderabad.

4. Two C.D. copies.